

**BOARD OF ENVIRONMENTAL PROTECTION**  
**Meeting Minutes**

December 15, 2005

A meeting of the Board of Environmental Protection was held on Thursday, December 15, 2005, at the Holiday Inn / Ground Round, Augusta, Maine. Matthew Scott, Chair, called the meeting to order at 9:00 a.m. with the following individuals present:

**Board:** Elizabeth Ehrenfeld, Denis Culley, Donald Guimond, Ernest Hilton, Virginia Plummer, Matt Scott, and Nancy Ziegler

Absent: Nancy Anderson

<b><u>Staff:</u></b>	Bureau of Land and Water Quality	Mike Mullen
	Bureau of Remediation and Waste Mgmt.	Paula Clark
	Bureau of Remediation and Waste Mgmt.	Jim Glasgow
	Bureau of Air Quality	Marc Cone

**Others:** Dawn Gallagher, Commissioner  
David P. Littell, Deputy Commissioner  
Jan McClintock, Assistant Attorney General  
Cynthia S. Bertocci, BEP Executive Analyst  
Terry Hanson, Administrative Assistant

***(Meeting adjourned at approximately 3:30 p.m.)***

## I. DEPARTMENTAL

### A. COMMISSIONER'S COMMENTS:

Staff Day: The Department held it's annual staff day event presenting its highest awards to: David Ladd received the customer service award (Bureau of Land and Water Quality), Glenn Angell, received the Steve Eufemia award (Bureau of Remediation and Waste Management) and Denise Messier received the esteemed Evelyn Jepshon award (Bureau of Remediation and Waste Management). In addition to those award winners, Matt Scott and David Courtemanch were recognized for their work on the clean up of Seabasticook Lake.

RCRA: The serious funding shortfall in the Department's RCRA program (hazardous waste management program) is being addressed for the immediate future by a temporary stop-gap plan, but a long term resolution is needed. The long term resolution will involve a proposal for a fee increase this Legislative session. Commissioner Gallagher is working on a reorganization that would include combining the Department's Pollution Prevention program with the RCRA program.

Director, Bureau of Remediation and Waste Management: Steve Davis submitted his resignation, which is effective at the end of January.

Staff Acknowledgements: David Littell circulated a recent letter thanking two responders from the Bangor Office for their work cleaning up an oil leak.

Liquified Natural Gas (LNG): The Department is aware of three potential LNG projects in the Downeast area. DEP anticipates that two of those projects will pre-file in the near future. This pre-filing, which will begin the FERC process, is required at least 6 months prior to the filing of an application. This FERC process is set forth in the new Energy Act and the Department is currently analyzing this process to fully understand the timing on DEP/BEP processing of applications. It is likely that the BEP will review some or all aspects of a LNG project. The Department is also looking into the authority of DEP and SPO in their respective reviews of any application to ensure a waiver of state authority does not occur. Any LNG project is likely to involve air and water permitting. The relationship between the air and water permits and the consistency review and the timing requirements of FERC procedure are being looked at.

### Questions:

Board member Hilton asked if the BEP process would also be limited to a 6 month timeframe.

*The Department is looking into the 180-day State processing timeframe and will discuss possible processing scenarios with the Board should this matter be under BEP jurisdiction to ensure that all State action is completed within the necessary timeframes.*

Board member Plummer asked about the recent press reports of NESCAUM talks on greenhouse gas controls breaking down.

*The initiative to achieve greenhouse gas reductions through regulation of electrical utilities has been intense over the last several months. Massachusetts and Rhode Island will not participate due to concerns about possible impacts on the cost of power.*

Board member Nancy Ziegler asked for a future update on the proposal for snow disposal in Casco Bay.

*Deputy Commissioner explained that the Department would need to permit that activity and an update will be provided at a future meeting.*

Board member Nancy Ziegler also commented on the use of plastic shopping bags in Maine compared with California and New York's use of bio-degradable bags. She asked if Maine is considering a change to the more environmentally friendly bags.

*Mr. Littell stated that the State Planning Office is the appropriate agency to followup on this idea and explained that he would note it for SPO.*

#### **B. CHAIRMAN'S COMMENTS**

The Chairman noted that he attended staff day and believes that the event and associated staff recognition was good for staff morale. The money raised by staff for their designated charity, Hospice, was wonderful.

#### **C. EXECUTIVE ANALYST COMMENTS:**

##### Upcoming projects:

Uliano – Board members have received a copy of the existing record. The parties will be providing additional information, forthcoming in January, in conjunction with the Board's decision to reopen the record to receive additional evidence on impacts to existing scenic, aesthetic, recreational and navigational uses and alternatives.

Kennebec and Androscoggin River dams: The Board received two petitions to modify the water quality certifications for several dams on Kennebec and Androscoggin. The Board will consider these matters by river system, with January 19<sup>th</sup> being identified for the Kennebec and February 2<sup>nd</sup> for the Androscoggin. The petitions contain lengthy attachments that staff can provide via CD or paper, Board members should let staff know if they prefer a CD or paper copy.

#### **D. BOARD CALENDAR:** Reviewed

#### **E. DEPARTMENTAL ORDERS:** Reviewed

#### **F. EXECUTIVE SESSION:** None

## **II CONSENT AGENDA ITEMS**

1. BEP Meeting Minutes, October 6, 2005 (approval)  
Withdrawn from consideration as an earlier draft was inadvertently printed.
2. BEP Meeting Minutes, October 20, 2005 (approval)
3. BEP Meeting Minutes, November 3, 2005 (approval)
4. BEP Meeting Minutes, November 17, 2005 (approval)

The Board voted on a motion to approve consent agenda items 2, 3, and 4 as presented (7-0-0-1)

5. PORTLAND SAND AND GRAVEL, INC., Gray - Administrative Consent Agreement (BAQ)
6. ARTHUR BRICKMAN, JR., Ellsworth – Administrative Consent Agreement and Enforcement Order (BLWQ – Land)

The Board voted on a motion to approve consent agenda items 5 and 6 as presented (7-0-0-1)

7. MAINE WOODS COMPANY, L.L.C., Portage Lake – Administrative Consent Agreement and Enforcement Order (BLWQ – Land)
8. PETER KELLEY, Pittston – Administrative Consent Agreement (BLWQ – Land)

The Board voted on a motion to approve consent agenda items 7 and 8 as presented (7-0-0-1)

9. JON B. HYVONEN and REBECCA T. HYVONEN, Willimantic – Administrative Consent Agreement and Enforcement Order (BLWQ – Land)
10. LOUIS F. NICHOLAS d/b/a LOUIS F. NICHOLAS MASONRY, Willimantic – Administrative Consent Agreement and Enforcement Order (BLWQ – Land)

The Board voted on a motion to approve as presented consent agenda items 9 and 10. (7-0-0-1)

The above votes were taken pursuant to 38 M.R.S.A., Section 341. Board members *Denis Culley, Elizabeth Ehrenfeld, Donald Guimond, Ernest Hilton, Virginia Plummer, Matt Scott, and Nancy Ziegler* voted to support the motions. Board member *Nancy Anderson* was absent.

### III. Regular Agenda

1. CHAPTER 402 TRANSFER STATIONS AND STORAGE SITES FOR SOLID WASTE, CHAPTER 405 WATER QUALITY MONITORING, LEACHATE MONITORING AND WASTE CHARACTERIZATION, CHAPTER 409, PROCESSING FACILITIES and CHAPTER 418, BENEFICIAL USE, / AMENDMENTS (deliberative session) Staff: Paula Clark, Bureau of Remediation and Waste Management

The Board conducted a 3 hour deliberative session and directed staff to schedule a second deliberative session in January 2006.

2. CONTINUE W/PROCESS / ROLE DISCUSSION  
Staff: Cynthia Bertocci, Board of Environmental Protection

The Board reviewed the draft report to the Legislature. Staff will redraft and distribute to Board members for final review prior to submission to the Legislature in January 2006.

#### **THE BOARD RECONVENED AT 1:30 TO CONDUCT A PUBLIC HEARING IN THE MATTER OF:**

CHAPTER 531 REGULATIONS FOR WASTEWATER OPERATOR CERTIFICATION / NEW  
Staff: Richard Darling, Bureau of Land and Water Quality

**BOARD OF ENVIRONMENTAL PROTECTION**  
**[[www.maine.gov/dep/bep/index.htm](http://www.maine.gov/dep/bep/index.htm)]**  
Holiday Inn / Ground Round, Augusta at 9:00 a.m.  
December 15, 2005

**I. DEPARTMENTAL**

- A. Commissioner's Comments
- B. Chairman's Comments
- C. Executive Analyst Comments
- D. Board Calendar
- E. Departmental Orders / Applications Accepted for Processing
- F. Executive Session

ADMINISTRATIVE CONSENT AGREEMENT:  
Proposed wastewater discharge enforcement resolution open for public comment  
Pursuant to 38 M.R.S.A. §347-A(6)

Maine Coast Memorial Hospital, Ellsworth  
287-8898)

(Staff: James Crowley

*Tentatively scheduled for Board action on January 19, 2005*

Squirrel Island Village Corp., Southport  
8898)

(Staff: James Crowley 287-

*Tentatively scheduled for Board action on February 2, 2005*

**II. CONSENT AGENDA ITEMS**

- 0031. BEP Meeting Minutes, October 6, 2005 (approval)
- 0092. BEP Meeting Minutes, October 20, 2005 (approval)
- 0153. BEP Meeting Minutes, November 3, 2005 (approval)
- 0194. BEP Meeting Minutes, November 17, 2005 (approval)
- 0235. PORTLAND SAND AND GRAVEL, INC., Gray - Administrative Consent Agreement (BAQ)
- 0276. ARTHUR BRICKMAN, JR., Ellsworth – Administrative Consent Agreement and Enforcement Order (BLWQ – Land)
- 0317. MAINE WOODS COMPANY, L.L.C., Portage Lake – Administrative Consent Agreement and Enforcement Order (BLWQ – Land)
- 039 8. PETER KELLEY, Pittston – Administrative Consent Agreement (BLWQ – Land)
- 0439. JON B. HYVONEN and REBECCA T. HYVONEN, Willimantic – Administrative Consent Agreement and Enforcement Order (BLWQ – Land)
- 047 10. LOUIS F. NICHOLAS d/b/a LOUIS F. NICHOLAS MASONRY, Willimantic – Administrative Consent Agreement and Enforcement Order (BLWQ – Land)

**III REGULAR AGENDA ITEMS**

- 051 1. CHAPTER 402 TRANSFER STATIONS AND STORAGE SITES FOR SOLID WASTE, CHAPTER 405 WATER QUALITY MONITORING, LEACHATE MONITORING AND WASTE CHARACTERIZATION, CHAPTER 409, PROCESSING FACILITIES and CHAPTER 418, BENEFICIAL USE, / AMENDMENTS (deliberative session)  
Staff: Paula Clark, Bureau of Remediation and Waste Management
2. CONTINUE W/PROCESS / ROLE DISCUSSION ( **as time allows** )  
Staff: Cynthia Bertocci, Board of E nvironmental Protection

**BOARD TO RECONVENE AT 1:30 TO CONDUCT A PUBLIC HEARING IN THE MATTER OF:**

CHAPTER 531 REGULATIONS FOR WASTEWATER OPERATOR  
CERTIFICATION / NEW